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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,727	09/10/2003	Richard E. Forkey	P25-003	3882

34021 7590 03/11/2005

GEORGE A. HERBSTER  
40 BEACH STREET  
SUITE 303  
MANCHESTER, MA 01944

EXAMINER
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MACK, RICKY LEVERN

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4A

<b>Office Action Summary</b>	Application No. 10/659,727	Applicant(s) FORKEY ET AL.	
	Examiner Ricky L. Mack	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-25 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0205</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> .                  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 2/8/04 has been entered.

### *Information Disclosure Statement*

2. The information disclosure statement (IDS) submitted on 2/8/05 has been considered by the examiner.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

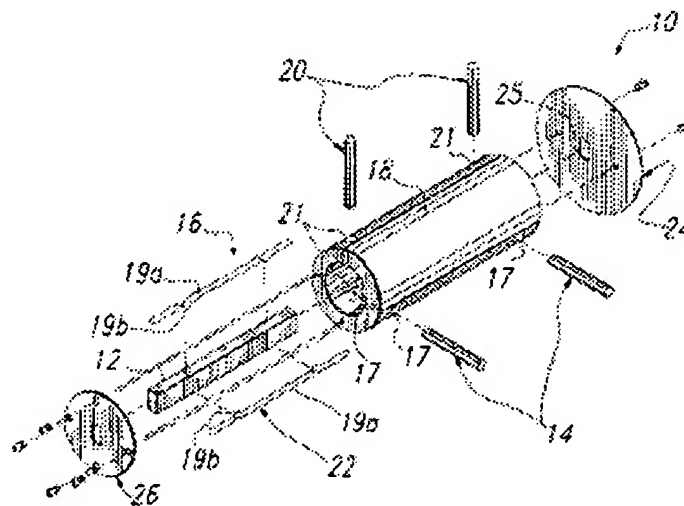
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as anticipated by DeLaMatyr et al. (5760976).

DeLaMatyr discloses, as in claims 1-9, an optical device extending along a geometric axis comprising: A) a final lens element (12) [*characterized B) formed from an initial lens by*

*centered, rotational symmetry about an optical axis, said final lens element having at least one [sawn] planar face (see fig. 1 below, ref. 1) extending between image forming surfaces transverse to said geometric axis at each end of said final lens element, said [at least one sawn] planar face (see surfaces of ref. 1, fig. 1) being parallel to and spaced from the geometric axis, and a sheath (18) surrounding said lens element. Claim 1 also recites product by process limitation in which the lens structure is a sawn process. The determination of patentability is based upon the product itself in a product by process claim (see MPEP 2173.05(p)) and consequently, the sawn process is not considered.*



### ***Allowable Subject Matter***

5. Claims 10-25 are allowed.
6. The following is an examiner's statement of reasons for allowability: The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in

claim(s) 10-25, wherein the claimed invention comprises (claims 10-18) a plurality of lens having at least one planar face and having a sheath surrounding the plurality of lenses to support the lens system along the geometric axis; and (claims 19-25) a method for making a lens system comprising constructing an initial lens with at least one lens element, each lens element being characterized by a centered rotational symmetry about the optical axis and removing portion of the lens element by sawing thereby to form sawn planar faces on the lens system parallel to the geometric axis whereby the lens system has a polygonal cross section, as claimed. The combination of all the claimed features are not anticipated or made obvious by the prior art and all of said features are relied upon for a determination of allowability.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Muto (6822803) is disclosed for citing optical glass cutting/sawing, but Muto does not disclose cutting planar surfaces as disclosed and claimed in the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky L. Mack whose telephone number is (571) 272-2333. The examiner can normally be reached on Monday-Friday (6:30 AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ricky L Mack  
Primary Examiner  
Art Unit 2873

RM  
March 7, 2005